

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Thomas Koprowski
DOCKET NO.: 05-01685.001-R-1
PARCEL NO.: 05-11-407-011

The parties of record before the Property Tax Appeal Board are Thomas Koprowski, the appellant, and the DuPage County Board of Review.

The subject property consists of an approximately 9,100 square foot lot which has been improved with a 55-year-old, two-story, frame dwelling of 2,618 square feet of living area. Features include a partial basement, fireplace, central air conditioning and a two-car garage. The property is located in Glen Ellyn, Milton Township, DuPage County.

The appellant appeared before the Property Tax Appeal Board claiming both unequal treatment in the assessment process and overvaluation as the bases of the appeal regarding the subject's land only. No dispute was raised concerning the improvement assessment.

In support of the land inequity argument, the appellant submitted a table (Exhibit A) setting forth the street address, property identification number, land area square footage, land assessment, and land assessment per square foot for sixteen parcels which the appellant described as being all of the two-story residential lots within his taxing district and within one square block of the subject. Some of the comparables were further noted as being "corner" lots. The comparable lots ranged in size from 7,800 to 20,538 square feet of land area and have land assessments ranging from \$18,070 to \$46,010 or from \$1.65 to \$2.32 per square foot of land area. The subject has a land assessment of \$23,820 or \$2.62 per square foot of land area.

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Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the DuPage County Board of Review is warranted. The correct assessed valuation of the property is:

LAND:	\$	23,820
IMPR.:	\$	162,320
TOTAL:	\$	186,140

Subject only to the State multiplier as applicable.

PTAB/cck/5-13

In a second chart (Exhibit G), appellant analyzed properties described as either across from and/or in visual contact with Lake Ellyn. In this chart, eight comparable parcels which ranged in size from 6,393 to 15,700 square feet of land area had land assessments ranging from \$19,990 to \$55,100 or from \$3.13 to \$6.89 per square foot of land area.

In addition, appellant noted the subject property is within 75 yards of railroad tracks, is in direct visual line of said tracks with the associated dilatory attributes of noise, vibration and graffiti on passing cars, and from among the comparables, the subject property is farthest from Lake Ellyn. Furthermore, while the assessing officials have purportedly classified the subject parcel as "normal," appellant contends the property shape is a trapezoid with no one side equal whereas other lots have been classified as "irregular" with no explanation for the differences in classifications. Appellant also briefly set forth other factors he contends detract from the desirability of the subject parcel including lack of street parking, topography, potential radon, and high traffic.

In support of his overvaluation argument, the appellant submitted sales information on three properties. These comparables sold in August and September 2004 for purchase prices ranging from \$610,000 to \$690,000. Appellant then set forth the 2005 total assessed values for these properties and the estimated fair market values based on these assessments. Using these calculations, appellant indicated the comparables were assessed from 7.86% to 13.68% below their recent purchase prices, whereas the subject's estimated fair market value based upon its 2005 assessment was only 4.54% below its August 2004 purchase price of \$585,000.

Based on this evidence, the appellant requested the subject's land assessment be reduced to \$18,564 or \$2.04 per square foot of land area.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's total assessment of \$186,140 was disclosed. In support of the subject's assessment, the board of review submitted three narrative responses to the appellant's appeal along with supporting attachments of applicable property record cards and parcel maps. The subject property has an estimated market value of \$558,979 as reflected by its assessment and DuPage County's 2005 three-year median level of assessments of 33.30% as determined by the Illinois Department of Revenue.

As to land assessment inequity argument, the board of review articulated the methodology both in documentary evidence and through the testimony of Ginny Westfall-Sprawka, the Milton Township Deputy Assessor. In the subject's neighborhood, a

front-foot land assessment methodology was used with \$361.53 per front-foot with potential depth factor adjustments. The subject property was calculated as having 70' of frontage and a negative or .94 depth factor. The deputy township assessor testified the front-foot of the subject was calculated by adding the front (90') and back lot lengths (65') and dividing by two (77.5'). The depth of the parcel was similarly calculated using the side lot line lengths (109' + 152' = 261/2 = 130.5'). With a depth of only 130', a .94 depth factor was applied resulting in a land assessment of \$340.00 per front-foot or \$23,820 according to the assessor's narrative, noting the assessments may be "off slightly" due to rounding.¹

The submitted documentation then reiterates appellant's sixteen land comparables and presents the assessments in terms of the front-foot assessment methodology which was applied, rather than a square foot of land methodology calculated by the appellant. It was further noted that one of the sixteen properties, an irregularly shaped, curved corner lot, was assessed on a site value basis, but the remaining fifteen were assessed on a front-foot basis. The documentation lists these fifteen comparables setting forth the recorded front-foot measurement, applicable depth factor, if any, and the land assessment per front-foot with a resulting 2005 land assessment. These fifteen comparables have front-foot measurements of 50', 70' or 126' and depth factors ranging from zero (for lot depths of 150' to 159') to 1.05 (for lot depths of 200') with resulting assessments from \$361.53 to \$380.00 per front-foot and total land assessments ranging from \$18,080 to \$46,020.

In testimony to address the purported deleterious effects of the railroad tracks near the subject property as set forth by the appellant, the assessor testified that the land assessments for properties across the street from the subject and which back up to the railroad tracks have been assessed using the same front-foot methodology as the subject with no adjustment to the land. However, since 1991 the improvements on those properties across the street from the subject have been assessed at a lower base construction cost to account for abutting the railroad tracks. No data to depict the land assessments of these properties was set forth in the board of review's evidence, although a narrative showing a history of sales of properties backing directly to the railroad tracks was provided. The assessor noted this point was to show property value appreciation even though these properties abut the railroad tracks; multiple sales of the properties were

¹ For the subject, base of \$361.53/front-foot x .94 depth factor = \$340/front-foot (rounded); 70' frontage x \$340 = \$23,800, but the 2005 assessment of the subject was \$23,820. On the other hand, the frontage could be said to be 77.5', but was apparently "rounded-down" to 70'; at 77.5' x \$340 would be a land assessment of \$26,350.

listed dating as far back as 1979. Examining only the most recent sales, the assessor has shown these properties sold between March 1998 and December 2005 for purchase prices ranging from \$136,500 to \$475,000

In addressing the appellant's irregularly shaped lake lots (Exhibit G), the assessor set forth a front-foot land assessment methodology for this neighborhood as \$545.14 per front-foot; however, according to the data only one property was assessed directly using this methodology. As set forth in the documentation, one property received a reduced land assessment as a "busy corner" and the remaining properties ranging in size from 50' x 160' to 100' x 157' were done on a "site value" basis. No explanation of the site value methodology was provided. These lake view properties had total land assessments ranging from \$55,070 to \$55,100.

The board of review submitted one comparable sale in a grid primarily addressing uniformity of improvement assessments. This sale occurred in January 2005 for \$810,000; this land parcel was said to be 50' x 168' (8,400 square feet) with a land assessment of \$18,270.

Based on the foregoing evidence, the board of review requested confirmation of the subject's land assessment.

In rebuttal, the appellant noted the properties across the street from the subject which abuts the railroad tracks were in a different taxing district and different assessor's neighborhood code. As such, the appellant contends that these comparisons are irrelevant. Moreover, the appellant urges that the previously outlined detriments of his property should be considered in determining the correct assessment of the subject property.

Upon examination by the Hearing Officer, the deputy assessor acknowledged that the subject property received no reduction in assessed value for facing the railroad tracks, although a reduction in assessed value is afforded to the improvement assessments of the properties which abut the railroad tracks.

While the deputy assessor contended that presence on a highly trafficked street would not afford the subject property a reduction in assessment, the appellant noted that the assessor did afford a reduction to one of the lake view properties for "busy corner." This reduction was not further explained by the board of review on this record.

After reviewing the record and considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Property Tax

Appeal Board further finds that a reduction in the subject's assessment is not warranted.

As noted at the hearing, the appellant argued overvaluation as a basis of the appeal. When market value is the basis of the appeal, the value must be proved by a preponderance of the evidence. Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill. App. 3d 179, 728 N.E.2d 1256 (2nd Dist. 2000). After analyzing the market evidence submitted, the Board finds the appellant has failed to overcome this burden.

The Property Tax Appeal Board finds the appellant submitted three sales in an effort to argue the "inappropriateness" of the subject's assessment in light of its recent sale price as compared to the sale prices and respective assessments of three nearby properties which recently sold. While a small number of properties can be used to establish lack of uniformity, with the raw sales data provided, appellant has not shown the comparables selected were similar in age, size, design, or other characteristics to the subject property. In fact, the appellant was very specific that the only dispute concerned the land assessment. As set forth in his Exhibit F, however, there is no descriptive data of these three properties. Thus, as cited in Peacock v. Illinois Property Tax Appeal Board, 339 Ill. App. 3d 1060 (4th Dist. 2003), such a limited study of handpicked comparables without other evidence of similarity to the subject is not sufficient and, is in fact, fatally flawed. This is not a random sampling of like properties that could be viewed as representative of the county's assessments as a whole. At most, the appellant's data shows that instances exist in which particular properties are undervalued, some more so than others. The law does not require "absolute equality" in taxation. Schreiber v. County of Cook, 388 Ill. 297 (1944) ("Perfect equality and uniformity of taxation as regards individuals or corporations or different classes of property subject to taxation can hardly be visualized. Absolute equality is impracticable in taxation and is not required by the equal protection clause of the constitution. Inequalities that result occasionally and incidentally in the application of a system that is not arbitrary in its classification, and not applied in a hostile and discriminatory manner, are not sufficient to defeat the tax"); Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960) (the constitutional uniformity requirement is satisfied if the taxing body achieves a reasonable degree of uniformity). It is difficult to imagine a context in which a study would be deemed valid where the author of the study chooses the subjects based on the result he seeks to prove. As such, the Board gave no weight to the appellant's comparable sales evidence.

Next, the Board gave no weight to the appellant's arguments regarding the external factors purportedly detracting from the

value of the subject property because appellant included no market data to support the claim that the subject's land assessment should be discounted for these factors. Appellant provided no empirical data demonstrating an adverse impact or diminution on the value of the subject property because of the railroad tracks, the high traffic, or any of the other claimed deleterious conditions. Moreover, the sales history of the subject property not only reflects a purchase in August 2004 for \$585,000, but also a prior purchase in May 1998 for \$318,000.

The appellant's other argument was unequal treatment in the assessment process. The Illinois Supreme Court has held that taxpayers who object to an assessment on the basis of lack of uniformity bear the burden of proving the disparity of assessment valuations by clear and convincing evidence. Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1 (1989). The evidence must demonstrate a consistent pattern of assessment inequities within the assessment jurisdiction. After an analysis of the assessment data, the Board finds the appellant has not overcome this burden.

The only dispute before this Board is a land inequity contention. The evidence establishes that for the subject and neighboring properties, the assessing officials uniformly utilize a front-foot assessment methodology. While rounding of numbers could certainly lead to some differences in calculations, beyond these minor mathematical differences, the methodology appears to be uniform within the area.²

As noted previously, the assessor's determination of 70' frontage for the subject property was calculated by adding the front lot line and the back lot line and then dividing by two. This calculation results in 77.5' and could arguably be rounded up to 80' of frontage, but instead was rounded down to 70' of frontage. Besides differences due to rounding, the front-foot land assessment methodology was applied uniformly to the subject property and neighboring properties.

The constitutional provision for uniformity of taxation and valuation does not require mathematical equality. The requirement is satisfied if the intent is evident to adjust the

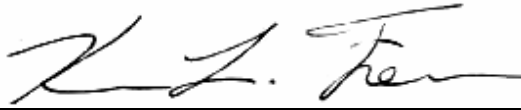
² Upon examining the fifteen comparables at the front-foot assessment rates set forth in the board of review's documentation, the mathematical process and the total land assessments stated do not match up. Some land assessments are nearly \$20 less than the mathematical calculation (50' x \$371.61 = \$18,581, not \$18,560) while others are \$20 more than the calculation (50' x \$380.00 = \$19,000, not \$19,020). Moreover, four of the comparables are said to be 50' x 200' lots with, after depth factors, assessments of \$380 per front-foot; however, one of these four properties has a land assessment of \$18,990 whereas the other three have land assessments of \$19,020, for a total difference of \$30.

taxation burden with a reasonable degree of uniformity and if such is the effect of the statute enacted by the General Assembly establishing the method of assessing real property in its general operation. A practical uniformity, rather than an absolute one, is the test. Apex Motor Fuel Co. v. Barrett, 20 Ill. 2d 395 (1960). Although the comparables presented by the appellant disclosed that properties located in the same area are not assessed at identical levels, all that the constitution requires is a practical uniformity which appears to exist on the basis of the evidence. For the foregoing reasons, the Board finds that the appellant has not proven by clear and convincing evidence that the subject property is inequitably assessed. Therefore, the Property Tax Appeal Board finds that the subject's land assessment as established by the board of review is correct and no reduction is warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: May 30, 2008



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the

subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.